

Defendant Ted Baer, appearing specially, submits the following reply memorandum on Defendant Ted Baer's Motion to Reconsider Order on Plaintiff's Motion for Extension of Time to

Respond to Defendant Ted Baer's Motion to Dismiss for Lack of Jurisdiction and hereby requests that Defendant Ted Baer's Motion to Dismiss be submitted for decision.

### **ARGUMENT**

Plaintiff Incentive argued in opposition to Defendant Ted Baer's Motion to Reconsider that reconsideration of the Court's July 1, 2011 Order on Plaintiff's Motion for Extension of Time to Respond to Defendant Ted Baer's Motion to Dismiss for Lack of Jurisdiction was unnecessary because (1) the July 27, 2011 deadline for the Atwell Defendants to answer Plaintiff Incentive's complaint was approaching and (2) that Plaintiff's response to Defendant Ted Baer's Motion to Dismiss would be due just five days after the July 27, 2011 deadline. As it turns out, the Atwell Defendants did in fact file their Answer and Counterclaim of Camelot Entertainment Group, Inc., Camelot Film Group, Inc., Camelot Distribution Group, Inc., Robert P. Atwell, Jamie R. Thompson, and Steven Istock to Amended Complaint on July 27, 2011, on time and as required by the July 1, 2011 Order. By timely filing their answer on July 27, 2011, the Atwell Defendants triggered the five-day period for Plaintiff Incentive to respond to Defendant Ted Baer's Motion to Dismiss, which period expired, August 1, 2011 or, at the very latest on August 3, 2011.

Because the Atwell Defendants did not seek any additional extensions to the July 27, 2011 deadline for filing their answer, Defendant Ted Baer's arguments opposing the extension and requesting the court reconsider the July 1, 2011 Order are now moot. Defendant Ted Baer's opposition to the extension was primarily based on the possibility that the Atwell Defendants would continue to seek extensions beyond the July 27, 2011 deadline and thereby potentially continue to extend the five-day deadline for Plaintiff Incentive's response to Defendant Ted Baer's

Motion to Dismiss for an indeterminate amount of time. Defendant Ted Baer did not want to be kept personally involved in litigation that is improper for lack of jurisdiction based solely on delays caused by other parties seeking continued extensions, when his Motion to Dismiss should be determined separate from any of the other defendants.

Because the Atwell Defendants answered on July 27, 2011, and because the five-day deadline set by the July 1, 2011 Order for Plaintiff Incentive to respond to Defendant Ted Baer's Motion to Dismiss expired on August 1, 2011 or, at the very latest, August 3, 2011, without any response in opposition having been filed by Plaintiff Incentive, Defendant Ted Baer requests that the Court now grant Defendant Ted Baer's Motion to Dismiss Plaintiff's Amended Complaint for Lack of Personal Jurisdiction.

DATED this 3<sup>rd</sup> day of August, 2011.

MORGAN, MINNOCK, RICE & JAMES, L.C.

/s/ Dennis R. James

Dennis R. James

Brian H. Hess

*Counsel for Defendant Ted Baer*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 3<sup>rd</sup> day of August, 2011, I electronically filed a true and correct copy of the foregoing **REPLY MEMORANDUM ON DEFENDANT TED BAER'S MOTION TO RECONSIDER ORDER ON PLAINTIFF'S MOTION FOR EXTENSION OF TIME TO RESPOND TO DEFENDANT TED BAER'S MOTION TO DISMISS FOR LACK OF JURISDICTION AND REQUEST TO SUBMIT DEFENDANT TED BAER'S MOTION FOR DECISION** with the Clerk of Court using the CM/ECF system which sent notification of such filing to the following:

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\_\_\_\_\_/s/ Lynette Ambrose